



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/518,900

09/27/2005

Ilan Samson

P08517US00/RFH

6600

881 7590 02/12/2007

STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

EXAMINER

MACNEILL, ELIZABETH

ART UNIT

PAPER NUMBER

3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

02/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/518,900

Applicant(s)

SAMSON ET AL.

Examiner

Elizabeth R. MacNeill

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/23/04; 1/17/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant amendments submitted 17 January 2007.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,5,7,12-14, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Silver (US 6,110,140).

Regarding claims 1,5,7,12-14, and 21, Silver teaches a breast pump with a body member (1), a breast engaging portion (2), a container (9), a valve (15), a flexible sleeve (41'), and actuating means to move the sleeve (20) (Figs 5 and 6)

3. Claims 1, 5-14, and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Britto et al (US 6,749,582).

Regarding claims 1,5-14, and 21 Britto teaches a breast pump with a body member (10), a breast engaging portion (20), a container (attached at 40), a valve (36), a flexible sleeve (140) sealed at one end (132) and closed by a rigid wall at the other (172) with a link pin (754), and actuating means to move the sleeve (216) (Figs 19 and 20 for pumping action).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Britto or Silver as applied to claim 1 above, and further in view of YTTEBORG (US 2003/0153869).

Silver and Britto teach a breast pump with a manually actuated sleeve member with is contracted and expanded in order to produce a vacuum pressure in the body of the breast pump in order to allow expressed milk to flow into the container of the breast pump. Silver and Hobbs do not teach the particulars of the horn claimed by the applicant.

Ytteborg teaches a breast cup (2) for use with a breast pump, the horn being shaped to engage a region of a user's breast, and being of a rigid material (12) and having bonded thereto at least one region of soft, elastic material (14) the soft material of the or each region infilling an associated aperture through the rigid material to comprise the thickness of the horn at said region, which the rigid material is polypropylene or polycarbonate, and the soft elastic material is a thermoplastic elastomer (P0031-P0032), in which there are two opposed regions of soft, elastic material remote from the open end of the horn, one for location above the breast and one for location below the

Art Unit: 3767

breast adjacent the nipple for manipulation by the thumb and a finger of the user (portions 13). Alternatively, the whole of the internal area of the rigid material is lined with said soft material (portions 14). Additionally, the outer peripheral edge of the horn comprises a lip of said soft material encasing the periphery of the rigid material (not labeled, rim). Finally, the horn is constructed by a two-shot moulding with the soft, elastic material permanently bonded to the rigid material by virtue of the inherent characteristics of the materials (Fig 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the breast pump of Hobbs with the breast cup of Ytteborg in order to provide a breast cup which is comfortable in use, soft and able to adapt to the various shapes and sizes of the breast and easy to use (P0013).

2. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silver or Britto in view of Kong et al (US 2001/0016708).

Silver and Britto teach a breast pump with a manual actuator which causes the volume of the interior of the pump to change by moving a flexible sleeve member. Silver and Britto fail to teach that the sleeve has a concertina shape.

Kong teaches a manual breast pump (10) with a hand actuating mechanism (38) and a variable volume chamber (31) with a concertina shaped sleeve (26) which has a rigid bottom (32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the concertina shaped sleeve in order to significantly reduce the friction between the moving parts of the pump without the use of a lubricant (P0005).

Double Patenting

3. Claim 21 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 1. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Response to Arguments

4. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3767

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

Elizabeth R. MacNeill
11/29/07

Atul
EXAMINER
SUPERVISOR
SECTION